

APR 10 2006

NOT FOR PUBLICATION

UNITED STATES COURT OF APPEALS

**CATHY A. CATTERSON, CLERK
U.S. COURT OF APPEALS**

FOR THE NINTH CIRCUIT

HELEN GRIGORIAN,

Petitioner,

v.

ALBERTO R. GONZALES, Attorney
General,

Respondent.

No. 04-76511

Agency No. A78-256-672

MEMORANDUM*

On Petition for Review of an Order of the
Board of Immigration Appeals

Submitted April 5, 2006**

Before: HAWKINS, McKEOWN, and PAEZ, Circuit Judges.

Helen Grigorian, a native and citizen of Iran, petitions for review of the Board of Immigration Appeals' ("BIA") decision denying her motion to reopen removal proceedings due to ineffective assistance of counsel. We have jurisdiction pursuant to 8 U.S.C. § 1252. Reviewing for abuse of discretion,

* This disposition is not appropriate for publication and may not be cited to or by the courts of this circuit except as provided by Ninth Circuit Rule 36-3.

** The panel unanimously finds this case suitable for decision without oral argument. *See* Fed. R. App. P. 34(a)(2).

Socop-Gonzalez v. INS, 272 F.3d 1176, 1187 (9th Cir. 2001) (en banc), we deny the petition for review.

The BIA did not abuse its discretion in denying Grigorian's motion to reopen on the ground that she failed to comply with the requirements of *Matter of Lozada*, 19 I. & N. Dec. 637 (BIA 1988). Grigorian did not provide former counsel with notice and an opportunity to respond. *See Reyes v. Ashcroft*, 358 F.3d 592, 599 (9th Cir. 2004) ("Because Reyes cannot prove he gave [counsel] notice of the ineffective assistance allegations or an adequate opportunity to respond, we conclude that Reyes has not substantially satisfied *Lozada*."). Former counsel's alleged ineffectiveness in communicating to Grigorian that the BIA dismissed her appeal is not evident from the record before us. Accordingly, we deny the petition for review. *See id.* at 597.

PETITION FOR REVIEW DENIED.